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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,324	03/16/2001	Steven M. Schein	ST/ 028 CONT 2	9059

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EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/810,324

Applicant(s)

SCHEIN ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 08/07/2006 have been fully considered but they are not persuasive.

Applicant argues (page 12, lines 19-32), "....In fact, applicants' independent claims specify a system and method that provides a seamless transition from a display screen displaying television program titles to a display screen displaying data identified as being related to selected television program title and received from a public network without requiring the proposed combination's interlocutory step of tuning to a television program."

In response, the Examiner respectfully disagrees with Applicant because newly amended claims 1 and 19 do not specifically exclude the proposed combination's interlocutory step of tuning to a television program, as argued.

Applicant further argues (page 13, lines 19-25 or 2<sup>nd</sup> to last paragraph), "The Examiner's motivation is hinged on the fact that the 2<sup>nd</sup> selection is received while the user is watching a television program. As discussed above, the Examiner's basis for the motivation is based on the very requirement applicant seek to avoid, and as such, the motivation necessarily fails."

In response, it is noted that the features upon which applicant relies (i.e., without requiring the step of tuning to a television program) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As such, the examiner maintains the rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (US 5,758,257) in view of Throckmorton et al. (US 5818441).

Regarding claim 1, an interactive program guide having a display screen comprising:

A database for storing television schedule information including television program titles (Col. 25, lines 16-18). For instance, at col.25, line 16, Herz discloses "storing at the set top multimedia terminal..." Clearly, this meets the limitation of storing television schedule information (EPG) including television program titles.

A display controller electrically coupled to the database for displaying some of the television schedule information including television program titles on the display screen (Col.5, lines 13-15).

An input device (RC 1008; Fig. 10) that is configured to receive a 1<sup>st</sup> user selection of a program title display on the display screen, the 1<sup>st</sup> user selection

comprising navigating a highlight to the television program title (reads on the user using cursor of the RC to navigate the EPG for television program title selection; in doing so the TV program title is highlighted each time the cursor lands on each grid of the EPG that contains corresponding TV program title; Col. 45, lines 35-50);

A processor (Fig. 10, el. 1006) for identifying data available on the public network (Internet) that is related to the selected television program title (reads on the system bases on user's profile that contains of selected TV program titles viewed by a viewer, the system identifies related data, i.e. advertisement, to selected TV program title viewed and then presents it to viewer; see Col. 41, lines 20-25 and Col. 51, lines 48-55. Moreover, Herz discloses the collected data, i.e. user profile, could be collected by the data collection system 508,622 on a real-time basis, see Col. 42, lines 60-63; For example, the TV program title is collected by the data collection system (508,622) each time the user selects it, and based on the collected data (selected TV program title viewed by a viewer), the system identifies related data to the collected data and then presents related data to corresponding viewer);

A communication device (Fig. 10, el. 1020) for receiving the identified data related to the selected television program title; and

A controller for displaying the received data related to the selected television program title on the display screen (Col.46, lines 54-60 and Col. 51, lines 3-65+).

Herz does not clearly discloses that the receiver device able to receive a 2<sup>nd</sup> user selection requesting that data available on a public network, in direct response

to the 2<sup>nd</sup> user selection, the controller for displaying the received data related to the selected television program title be displayed after the 1<sup>st</sup> selection.

Throckmorton discloses a PC/TV device able to receive a 1<sup>st</sup> user selection of a TV program title by navigating/tuning through an EPG and receiving a 2<sup>nd</sup> user selection requesting that data available on a public network, in direct response to the 2<sup>nd</sup> user selection, the controller for displaying the received data related to the selected television program title be displayed after the 1<sup>st</sup> selection (Col. 1, lines 24-45; Col. 8, lines 52-Col. 9, lines 25) and a processor (Fig. 4-5) for identifying data available on the public network (Internet) that is related to the selected television program title. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz with the teaching of allowing user to obtain additional information related to TV program currently viewed, as taught by Throckmorton, so to enhance viewer experience of being able to interact with the currently watching a TV program (Col. 1, lines 36-46).

Regarding claim 2, wherein the database resides on one or more remote file servers accessible through a communication link (Col.46, line 65-67).

Regarding claim 3, wherein the communication link comprises an Internet (Col.51, lines 6-7).

Regarding claim 4, wherein the identified data comprises an advertisement (Col. 41, lines 20-25; Col.47, lines 59-67 and Col.48, lines 1-5).

Regarding claim 5, Herz further discloses means for monitoring (Col.14, lines 3-7) and storing a plurality of user selections of television programs (Col.25, lines 37-41);

Means for learning a user preference based on the plurality of user selections of the television programs (Col. 6, lines 50-57);

Means for activating the program guide based on the user preference (for reminding the user to view the preferred television program; Col.23, lines 1-7);

Regarding claim 6, wherein the means for learning the user-preference comprises means for storing the user preference responsive to a user input (Col.22, lines 19);

Regarding claim 7, wherein the user preference comprises a television program (Col.25, lines 16-18).

Regarding claim 8, wherein the user preference comprises a theme for a plurality of television programs (Col. 4, lines 32-34).

Regarding claim 9, wherein the means for activating comprises means for reminding a user to view a preferred television program (Col.23, lines 1-7).

Regarding claim 10, wherein the means for activating comprises means for recording a preferred television program (a record is kept of all movies or shows watched by all customers, Col. 1, lines 50-55 and Col.38, lines 42-43).

Regarding claim 11, wherein the means for activating comprises means for downloading a copy of a preferred television program to a digital storage medium (memory; Col.51, lines 40-52).

Regarding claim 12, wherein the activating means comprises means for searching the television schedule information (Col. 5, lines 54-58); means for identifying television programs matching the theme for the plurality of television programs (Col. 6, lines 1-35); and means for recording the television programs matching the theme for the plurality of television programs (Col. 25, lines 15-30).

Regarding claim 13, wherein the activating means comprises means for searching the television schedule information (Col. 5, lines 54-58); means for identifying television programs matching the theme for the plurality of television programs (Col. 6, lines 1-35); and downloading a copy of the television programs



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matching the theme for the plurality of television programs to a digital storage medium (Col. 25, lines 15-30).

Regarding claim 14, wherein the means for activating comprises means for adapting the television schedule information displayed on the screen based on the user-preference (Col.45, line 14-38).

Regarding claim 15, further comprising:

means for displaying preview programming for future-scheduled television program (Col.48, lines 48-55);

means for identifying a plurality of sources of information (Col.4, lines 33) having data related to the future-scheduled television program (Col. 41, lines 25-30);

means for selecting an identified source of information (advertiser) having data (advertisement) related to the future-scheduled television programs (Col. 41, lines 25-30);

means responsive to the selected source of information for establishing a link to the identified source of information (Fig.10, Col.47, lines 55-65+); and

means for displaying data (targeted advertising) from the linked source of information (advertiser) on the screen (Col.47, lines 54-65+).

Regarding claim 16, wherein the data related to the future-scheduled television program comprises one or more advertisement, video preview, and textual information (Col.47, lines 54-65+; Col. 51, lines 5-28 and lines 50-52);

Regarding claim 17, further comprising means for storing and displaying advertisement data (Col. 47, lines 59-67 and Col.48, lines 1-5).

Regarding claim 18, wherein the identified data comprises one or more of selected TV program actors, actresses, themes, other broadcast times, other broadcast sources, and associated available products (Col. 4, lines 64-67; Col. 51, lines 48-55).

Claim 19 is analyzed with respect to claim 1

Claim 20 is analyzed with respect to claim 2

Claim 21 is analyzed with respect to claim 3

Claim 22 is analyzed with respect to claim 4

Claim 23 is analyzed with respect to claim 5

Claim 24 is analyzed with respect to claim 6

Claim 25 is analyzed with respect to claim 7

Claim 26 is analyzed with respect to claim 8

Claim 27 is analyzed with respect to claim 9

Claim 28 is analyzed with respect to claim 10

Claim 29 is analyzed with respect to claim 11

Claim 30 is analyzed with respect to claim 12

Claim 31 is analyzed with respect to claim 13

Claim 32 is analyzed with respect to claim 14

Claim 33 is analyzed with respect to claim 15

Claim 34 is analyzed with respect to claim 18

Claim 35 is analyzed with respect to claim 16

Claim 36 is analyzed with respect to claim 17

Claim 37 is analyzed with respect to claim 18

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht  
10/26/2006



**HAI TRAN**  
**PRIMARY EXAMINER**